suggest a violation of the Federal statutes providing for the punishment of seditious conspiracy; both officers acting together to a common end, and being then and there charged with the duty of investigating and bringing to justice persons who might be guilty of seditious conspiracy under the Federal statutes. We are only assuming, for argument's sake, that the words complained of are actionable as slanderous, or could be so regarded upon proper innuendo, pleading, and proof.

"Viewing the alleged slanderous words as being spoken by respondent to Jarrell, the secret service officer, and no one else hearing them—as for present purposes they must be viewed—we think they constitute an absolute privileged communication from respondent to Jarrell. They manifestly were not spoken with any thought that they should ever be given to the world, or that anyone else should ever learn of their utterance, other than appellant and Jarrell, the secret service officer."

Negligence—Liability of Wrongdoer for Injuries to Rescuer.—In Wagner *v.* International Ry. Co., 133 N. E. 437, the court of Appeals of New York held that a wrongdoer imperiling life is accountable for injury to the rescuer if the risk of rescue be not wanton, though the coming of a rescuer may not have been foreseen.

The court said in part: "Danger invites rescue. The cry of distress is the summons to relief. The law does not ignore these reactions of the mind in tracing conduct to its consequences. It recognizes them as normal. It places their effects within the range of the natural and probable. The wrong that imperils life is a wrong to the imperiled victim; it is a wrong also to his rescuer. The state that leaves an opening in a bridge is liable to the child that falls into the stream, but liable also to the parent who plunges to its aid. Gibney *v.* State of N. Y., 137 N. Y. 1, 33 N. E. 142, 19 L. R. A. 365, 33 Am. St. Rep. 690. The railroad company whose train approaches without signal is a wrongdoer toward the traveler surprised between the rails, but a wrongdoer also to the bystander who drags him from the path. Eckert *v.* L. I. R. R. Co. 43 N. Y. 502, 3 Am. Rep. 721. Cf. Matter of Waters *v.* Taylor Co., 218 N. Y. 248, 112 N. E. 727, L. R. A. 1917A, 347. The rule is the same in other jurisdictions. Dixon *v.* N. Y. N. H. & H. R. R. Co., 207 Mass. 126, 130, 92 N. E. 1030, and Bond *v.* B. & O. R. R. Co., 82 W. Va. 557, 96 S. E. 932, 5 A. L. R. 201, with cases there cited. Cf. 1 Beaven on Negligence, 157, 158. The risk of rescue, if only it be not wanton, is born of the occasion. The emergency begets the man. The wrongdoer may not have foreseen the coming of a deliverer. He is accountable as if he had. Ehrgott *v.* Mayor, etc., of N. Y., 96 N. Y. 264, 280, 281, 48 Am. Rep. 622.

"The defendant says that we must stop, in following the chain of causes, when action ceases to be 'instinctive.' By this is meant, it

and immediate. If there has been time to deliberate, if impulse has given way to judgment, one cause, it is said, has spent its force, and another has intervened. In this case the plaintiff walked more than 400 feet in going to Herbert's aid. He had time to reflect and weigh; impulse had been followed by choice; and choice, in the defendant's view, intercepts and breaks the sequence. We find no warrant for thus shortening the chain of jural causes. We may assume, though we are not required to decide, that peril and rescue must be in substance one transaction; that the sight of the one must have aroused the impulse to the other; in short, that there must be unbroken continuity between the commission of the wrong and the effort to avert its consequences. If all this be assumed, the defendant is not aided. Continuity in such circumstances is not broken by the exercise of volition. Twomley *v.* C. P., N. & E. R. R. R. Co., 69 N. Y. 158, 25 Am. Rep. 162; Donnelly *v.* Piercy Contracting Co., 222 N. Y. 210, 118 N. E. 605; Bird *v.* St. Paul F. & M. Ins. Co., 224 N. Y. 47, 54, 120 N. E. 86, 13 A. L. R. 875. So sweeping an exception, if recognized, would leave little of the rule. The human mind, as we have said (People *v.* Majone, 91 N. Y. 211, 212), acts with celerity which it is sometimes impossible to measure. The law does not discriminate between the rescuer oblivious of peril and the one who counts the cost. It is enough that the act, whether impulsive or deliberate, is the child of the occasion.

"The defendant finds another obstacle, however, in the futility of the plaintiff's sacrifice. He should have gone, it is said, below the trestle with the others; he should have known, in view of the overhang of the cars, that the body would not be found above; his conduct was not responsive to the call of the emergency; it was a wanton exposure to a danger that was useless. Miller *v.* Union Ry. Co. of N. Y. City, 191 N. Y. 77, 80, 83 N. E. 583. We think the quality of his acts in the situation that confronted him was to be determined by the jury. Certainly he believed that good would come of his search upon the bridge. He was not going there to view the landscape. The law cannot say of his belief that a reasonable man would have been unable to share it. He could not know the precise point at which his cousin had fallen from the car. If the fall was from the bridge, there was no reason why the body, caught by some projection, might not be hanging on high, athwart the tie rods or the beams. Certainly no such reason was then apparent to the plaintiff, or so a jury might have found. Indeed, his judgment was confirmed by the finding of the hat. There was little time for delay, if the facts were as he states them. Another car was due, and the body, if not removed, might be ground beneath the wheels. The plaintiff had to choose at once, in agitation and with imperfect knowledge. He had seen his kinsman and companion thrown out into the darkness. Rescue could not charge the company with liability if rescue was condemned by reason.

resulted 'from the excitement and confusion of the moment.' Corbin *v.* Philadelphia, 195 Pa. 461, 472, 45 Atl. 1070, 49 L. R. A. 715, 78 Am. St. Rep. 825. The reason that was exacted of him was not the reason of the morrow. It was reason fitted and proportioned to the time and the event.

"Whether Herbert Wagner's fall was due to the defendant's negligence, and whether plaintiff, in going to the rescue, as he did, was foolhardy or reasonable in the light of the emergency confronting him, were questions for the jury."

Street Railroads—Stopping Automobile on Track Not Negligence.—In Fitch *v.* Bay State St. Ry., 129 N. E. 423, the Supreme Judicial Court of Massachusetts held that where a husband, driving his wife and guests in his automobile, stopped on the street car track in order to assist his guests, one of whom was blind and the other a sufferer from paralysis, to reach their home, neither he nor his wife were negligent, precluding them from recovering from the street railway for injuries when a car came on them suddenly and struck the automobile before it could be started.

The court said in part: "It is plain that it could not be ruled as matter of law that either plaintiff acted heedlessly, or was willing to take the chance of being injured. The plaintiffs were lawfully using the street, and the conduct of Mr. Fitch, in stopping and in assisting the Snows to reach their home, the jury could say, was justifiable under the circumstances for the needs and welfare of his guests. Evensen *v.* Lexington & B. Street R. Co., 187 Mass. 77, 72 N. E. 355; Chaput *v.* Haverhill, G. & D. Street R. Co., 194 Mass. 218, 220, 80 N. E. 597. The present case is distinguishable from Lawrence *v.* Fitchburg & L. Street R. Co., 201 Mass. 489, 87 N. E. 898, where the plaintiff, knowing that a car was approaching, deliberately stopped his automobile on the track without taking any precautions whatever for the personal safety of his wife or of himself. Mrs. Fitch, who had seen her son run back and meet the approaching car when it was quite a distance away, well may have had no reason to anticipate that the motorman would not see the automobile and avoid running into it. If, in the light of what happened, she overstayed, a 'plaintiff is not to be charged with negligence because of a mere error of judgment, especially when the circumstances are such as to call for speedy decision and action.' Hennesey *v.* Taylor, 189 Mass. 583, 76 N. E. 224, 3 L. R. A. (N. S.) 345, 4 Ann. Cas. 396; Hanley *v.* Boston Elevated Railway, 201 Mass. 55, 87 N. E. 197."